IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

OP.No. 4130 of 2000(N)

PETITIONER:

NASEER, S/O.MOIDEEN,
AGED ABOUT 40 YEARS,
RESIDING AT VATTAKKAVIL HOUSE,
OONNUKAL P.O., KOTHAMANGALAM.

BY ADV. SRI.T.M.SREEDHARAN

RESPONDENTS:
---

1. THE TAHSILDAR,
KOTHAMANGALAM TALUK,
KOTHAMANALAM.

2. THE REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA.

3. THE DISTRICT COLLECTOR,
ERNAKULAM.

4. THE VILLAGE OFFICER,
NERIAMANGALAM.

BY G.P. SMT.SMITHA SUKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.6730/2000 IN O.P. NO.4130/2000

DISMISSED:

19.11.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF NOTICE DT.15.10.97 ISSUED BY R1.

P2: TRUE COPY OF ORDER DT.29.10.97.

P3: TRUE COPY OF NOTICE IN FORM B DT.13.10.98.

P4: TRUE COPY OF REPLY DT.28.10.98 SUBMITTED BY PETITIONER.

P5: TRUE COPY OF ORDER DT.2.11.98.

P6: TRUE COPY OF ORDER DT.16.8.99.

P7: TRUE COPY OF ORDER DT.11.1.2000.

P8: TRUE COPY OF NOTICE IN FORM C.

P9: TRUE COPY OF NOTICE DT.27.1.2000.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....

O.P. No.4130 of 2000

.....

Dated this the 19th day of November, 2007.

JUDGMENT

The petitioner is challenging order issued under Section 10 of the Land Conservancy Act demanding fine and compensation for illegal cutting and removal of a teak tree from thodu puramboke which is Government land. I heard counsel for the petitioner and Government Pleader and have also gone through the documents produced. Since the tree cut was from Government puramboke land, it was seized by the Village Officer and put up in auction. However, since the price offered was low, it was not sold. Thereafter the timber logs were found missing and petitioner was charged with theft of the same. Counsel for the petitioner contended that petitioner was acquitted in the criminal case charged in the matter. However, going by the findings of the lower authorities upto the Collector, I do not think the acquittal in the case before the Magistrate Court can save the petitioner from the liability under the Land Conservancy Act. There is no scope for this court to reappraise the evidence in this matter because all the lower authorities concurrently held against the

petitioner. However, I find that the amount demanded is three times the value of timber estimated by the department. In the circumstances and having regard to the acquittal in the criminal case, I modify the impugned orders by reducing the amount to rupees seven thousand five hundred and grant time to the petitioner till 15.2.2008 to make payment. However, if payment is not made before 15.2.2008, the reduction granted will stand cancelled and respondents will recover the entire arrears.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms